



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

RENAISSANCE HOSPITAL
C/O BURTON & HYDE PLLC
PO BOX 684749
AUSTIN TX 78768-4749

Respondent Name

UTICA MUTUAL INSURANCE COMPANY

Carrier's Austin Representative Box

Box Number 1

MFDR Tracking Number

M4-08-0946-01

MFDR Date Received

February 5, 2007

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our company has purchased national hospital payment data from 'Cleverly and Associates': a nationally recognized company. This data is known as Med Par Data, based on this data, we have established a PAF or payment adjustment factor to be applied to our hospital specific Medicare OPPS reimbursement rate and determined this to be our interpretation and application of fair and reasonable. . . . The PAF we have established is 213.8% of our hospital specific Medicare Outpatient Prospective Payment System reimbursement rate; this rate is consistent with most commercial and private payers with in this region."

Amount in Dispute: \$1,488.16

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The medical bill in question is an outpatient hospital bill and has been paid in accordance with Utica National's 'usual and customary' rate, which is 125% of Trailblazer's amount, since there is no Texas Fee Schedule recommendation. . . . In addition, the facility has a PPO contract, so the payable amounts were reduced in accordance with their contract."

Response Submitted by: Utica National Insurance Group, PO BOX 6554, Utica, New York 13504-6554

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 10, 2006	Outpatient Services	\$1,488.16	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.1 provides for fair and reasonable reimbursement of services not identified in an established fee guideline.

3. Texas Labor Code §413.011 sets forth general provisions related to reimbursement policies and guidelines.
4. U.S. Bankruptcy Judge Michael Lynn issued a “STIPULATION AND ORDER GRANTING RELIEF FROM AUTOMATIC STAY TO PERMIT CONTINUANCE AND ADJUDICATION OF DISPUTED WORKERS COMPENSATION CLAIMS BEFORE THE TEXAS STATE OFFICE OF ADMINISTRATIVE HEARINGS,” dated August 27, 2010, in the case of *In re: Renaissance Hospital – Grand Prairie, Inc. d/b/a/ Renaissance Hospital – Grand Prairie, et al.*, in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division in Case No. 08-43775-7. The order lifted the automatic stay to allow continuance of the claim adjudication process as to the workers’ compensation receivables before SOAH, effective October 1, 2010. The order specified John Dee Spicer as the Chapter 7 trustee of the debtor’s estate. By letter dated October 5, 2010, Mr. Spicer provided express written authorization for Cass Burton of the law office of Burton & Hyde, PLLC, PO Box 684749, Austin, Texas 78768-4749, to be the point of contact on Mr. Spicer’s behalf relating to matters between and among the debtors and the Division concerning medical fee disputes. The Division will utilize this address in all communications with the requestor regarding this medical fee dispute.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - W1 – Workers Compensation State Fee Schedule Adjustment
 - W1 : 28 – The reduction was made for reasons indicated in note below or on the attached note or letter.
 - W1 : 05 – The value of the procedure is included in the value of another procedure performed on this date.

Findings

1. The respondent’s position statement asserts that “the facility has a PPO contract, so the payable amounts were reduced in accordance with their contract.” The respondent submitted explanations of benefits that state “PPO REDUCTION ALSO TAKEN.” No documentation was found to support that the disputed services are subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on May 24, 2012, the Division requested the respondent to provide a copy of the referenced contract(s) between the alleged PPO network and the requestor, as well as the contract between that alleged network and the insurance carrier, pursuant to former 28 Texas Administrative Code §133.307(e)(1), effective December 31, 2006, 31 Texas Register 10314, which states that “The Division may request additional information from either party to review the medical fee issues in dispute. The additional information must be received by the Division no later than 14 days after receipt of this request. If the Division does not receive the requested additional information within 14 days after receipt of the request, then the Division may base its decision on the information available.” While the insurance carrier submitted some documentation to support that the requestor had a contract with the alleged network, the respondent did not provide a copy of the requested contract between the insurance carrier and the alleged network; therefore, this decision is based on the information available at the time of this review. Review of the submitted information finds no documentation to support that the injured worker was a ‘covered person’ under the terms of the alleged contract, nor that the insurance carrier had been granted access to the contractual fee arrangement between the alleged network and the health care provider. No documentation was found to support that the contract was in effect on the date of service. No documentation of any notice as required under the terms of the contract was presented for review. The respondent has failed to support that the services in dispute are subject to a contractual fee arrangement between the parties to this dispute. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines
2. This dispute relates to services with reimbursement subject to the provisions of former 28 Texas Administrative Code §134.1(c), effective May 16, 2002, 27 Texas Register 4047, which requires that “Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers’ Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission.”
3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
4. 28 Texas Administrative Code §133.307(c)(2)(A), effective December 31, 2006, 31 Texas Register 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include “a copy of all medical bill(s)... as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration...” Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all medical bill(s) as originally submitted to the carrier. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(A).
5. 28 Texas Administrative Code §133.307(c)(2)(G), effective December 31, 2006, 31 Texas Register 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of

reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:

- The requestor’s position statement asserts that “Our company has purchased national hospital payment data from ‘Cleverly and Associates’: a nationally recognized company. This data is known as Med Par Data, based on this data, we have established a PAF or payment adjustment factor to be applied to our hospital specific Medicare OPPS reimbursement rate and determined this to be our interpretation and application of fair and reasonable. . . . The PAF we have established is 213.8% of our hospital specific Medicare Outpatient Prospective Payment System reimbursement rate; this rate is consistent with most commercial and private payers with in this region.”
- Review of the submitted information finds that the requestor’s data does not support the reimbursement amount sought by the requestor.
- The requestor did not explain how it determined that a payment adjustment factor of 213.8% of the hospital specific Medicare Outpatient Prospective Payment System reimbursement rate would result in a fair and reasonable reimbursement for the services in dispute.
- The requestor did not submit documentation to support that a payment adjustment factor of 213.8% of the hospital specific Medicare Outpatient Prospective Payment System reimbursement rate would result in a fair and reasonable reimbursement for the services in dispute.
- In support of the requested reimbursement, the requestor submitted redacted explanations of benefits, and selected portions of EOBs, from various sample insurance carriers. However, the requestor did not discuss or explain how the sample EOBs support the requestor’s position that additional payment is due. Review of the submitted documentation finds that the requestor did not establish that the sample EOBs are for services that are substantially similar to the services in dispute. The carriers’ reimbursement methodologies are not described on the EOBs. Nor did the requestor explain or discuss the sample carriers’ methodologies or how the payment amount was determined for each sample EOB. The requestor did not discuss whether such payment was typical for such services or for the services in dispute.
- The requestor did not submit documentation to support that this rate is consistent with most commercial and private payers in the region.
- The requestor has not supported that payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amounts sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

Authorized Signature

Signature

Grayson Richardson
Medical Fee Dispute Resolution Officer

October 4, 2013
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.